

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of (first named inventor):

Michael Travis GILBERT

Serial No.: 10/780,691

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For: Weather Profiles

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DECLARATION UNDER 37 C.F.R. § 1.131

U.S. Patent and Trademark Office
Commissioner for Patents

Sir:

I, Michael Travis Gilbert, hereby declare as follows:

- 1) I am named as a joint inventor of the above-identified patent application;
- 2) I am presently employed by Microsoft Corporation (Microsoft), and was employed by Microsoft during conception and development of the above-identified application.
- 3) Microsoft is the assignee of the above-identified application.
- 4) Prior to January 12, 2004, ("the critical date") the admitted date of Grigoriev, "Case Study For Natural Phenomena Visualization: Weather Effects," SPIE Vol. 3687, pp 224-227, Linda Hall Library, we actually reduced to practice the invention recited at least in pending claims 1 and 2 of the above-identified application.
- 5) Reduction to practice was in the form of software distributed on multiple optical CD disks, which could be and actually were executed on one or more computers. Specifically, the inventions recited in claims 1 and 2 were included within the commercial release of Flight Simulator 2004: A Century of Flight ("FS2004"), which was publicly released prior to the critical date.
- 6) Claim 1 recites:

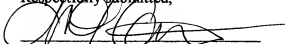
A tangible computer readable medium storing computer executable instructions for performing a computer-assisted method of

- graphically depicting weather defined in a pre-existing weather profile to a simulated geographical environment in a computer game, comprising:
- a) a computer reading a data structure storing predefined location neutral weather information, wherein the data structure comprises weather information for each of a plurality of cells in a multi-dimensional array;
 - b) the computer applying the weather information read from the data structure to a grid within the simulated geographical environment of the computer game based on a user's starting position within the computer game; and
 - c) the computer graphically depicting weather in the computer game based on a current position of the user within the grid.
- 7) FS2004 graphically depicted weather defined in a pre-existing weather profile to a simulated geographical environment in a computer game. A copy of the FS2004 instruction manual is attached as Exhibit A. The manual indicates a copyright date of 1983-2003 on the page preceding page 1 of the manual. Graphical depiction of weather is illustrated at least on pages 11-12 of the manual.
 - 8) FS2004 was released in commercial form on 4 tangible optical CD-ROM disks, a photocopy of which are attached as Exhibit B. The packaging in which the CD-ROM disks was distributed indicates a copyright date of 2003, shown in Exhibit C.
 - 9) The 4 CD-ROM disks are executable by a computer to read a data structure comprising weather information for each of a plurality of cells in a multi-dimensional array. See, e.g., the discussion of Weather Themes on pp. 11-12 of Exhibit A.
 - 10) The computer applies the weather information read from the data structure to a grid within the simulated geographical environment of the computer game based on a user's starting position within the computer game. See, e.g., pages 11-12 of Exhibit A ("preset weather conditions centered on your aircraft's current location").
 - 11) The computer graphically depicts weather in the computer game based on a current position of the user within the grid. See, e.g., pages 11-12 of Exhibit A ("Select 'Cold Fronts' to fly through fast-moving storms, 'Fogged In' to test your instrument skills, 'Winter Wonderland' to spend a beautiful day flying amid snow flurries, or one of seven other preset themes that let you experience complex weather

conditions *without having to set conditions along your flight path.*") (emphasis added).

- 12) I have successfully executed the software released prior to the critical date on one or more computers.
- 13) Exhibits A-C demonstrate reduction to practice prior to the Critical Date.
- 14) The attached exhibits have not been altered since they were originally prepared.
- 15) I am over 18 years of age and of competent mind.
- 16) All statements made of my own knowledge are true and all statements made on information and belief are believed to be true; and further, these statements were made with the knowledge that willful, false statement so made are punishable by fine or imprisonment or both, under 18 U.S.C. § 1001 and that such willful, false statements may jeopardize the validity of the above-identified application or any patent issuing thereon.

Respectfully submitted,


Michael Travis Gilbert

11/6/06
Date